

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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BRIAN R. CALLAHAN,

Petitioner,

- against -

13 CR 453 (ADS)

UNITED STATES OF AMERICA,

Respondent.

----- x

UNITED STATES OF AMERICA,

- against -

13 CR 453 (ADS)

ADAM MANSON,

Defendant.

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DECLARATION OF MICHAEL KUPKA

Michael Kupka declares under 28 U.S.C. §1746 as follows:

1. I am the managing director of the Forensic Accounting and Dispute Resolution Department of Mazars USA (“**Mazars**”), a full-service accounting, tax and consulting firm, and independent member firm of the Mazars Group, a global organization consisting of over 23,000 professionals with 310 offices in 89 countries.
2. I have over eighteen years of forensic and public accounting experience with a specialty in complex business, commercial, criminal and multi-party matters. I have worked on hundreds of engagements for clients ranging from Fortune 500 companies to small entrepreneurial business. I am a Certified Public Accountant (CPA) in New York State and

accredited as a Certified Fraud Examiner (CFE) by the Association of Certified Fraud Examiners, and as a Certified Financial Forensic (CFF) accounting by the American Institute of Certified Public Accountants, among other professional certifications and memberships. I was appointed by the Supreme Court of the State of New York to and currently serve as a fiduciary with the New York State Office of Court Administration to conduct forensic audits and accounting. My *curriculum vitae* accompanies this Declaration.

3. In February 2019, Mazars was engaged by The Law Offices of Andrew J. Frisch to assist with the defense of Brian Callahan (“**Callahan**”) and Adam Manson (“**Manson**”) in the above-captioned cases. I was requested to determine financial loss pursuant to the below-discussed indictment and the plea agreements entered into (“**financial loss**”).
4. My analysis primarily consisted of analyzing a government-prepared spreadsheet (“**government’s spreadsheet**”), containing 32 columns and 1,917 rows and an associated one-page summary, which I understood was disclosed as support for the government’s view of loss, as set forth in a letter submitted by the government to the Court, dated September 13, 2017, in connection with the sentencing of Mr. Callahan.
5. The government’s spreadsheet appears to disclose and summarize monetary transfers (cash movements) between various accounts and was the basis for the government’s predicated conclusions of loss. In my analysis, I assumed that this government’s spreadsheet was correct because the government did not provide any documentation which would allow me to independently test its accuracy. More specifically, I have not been provided by any backup data, such as, for example: underlying account statements, wire transfer information or bank statements to independently test the accuracy of the government’s spreadsheet.
6. In addition to the government’s spreadsheet and its accompanying one-page summary, I also reviewed: (i) the indictment, (ii) the plea agreements, and (iii) the government’s letter of September 13, 2017. Furthermore, I met twice with Mr. Callahan at the facility where he was imprisoned.

7. As part of my analysis, I examined and compared the information provided on the government's spreadsheet with the indictment, especially but not limited to paragraphs 14 through 17 and 22. In particular, I was also made aware that the government had described this case in the indictment and in other documents as a \$96 million Ponzi scheme, a charge that, I understand, Mr. Callahan plead guilty to.
8. Next, in determining financial losses, I relied on the government's list of applicable credits, as set forth in its letter of September 13, 2017, at page 3 that totaled \$120,839,000.
9. According to the government's letter, those credits included: (i) \$74 million of redemptions to Mr. Callahan's investors, (ii) \$40.3 million from the sale of the Panoramic View resort, and (iii) \$6.4 million recovered from hedge funds when Mr. Callahan's assets were seized.
10. Based on my analysis of determining financial losses and by considering the **\$96 million** of total Ponzi scheme, as the starting point for my analysis, I concluded that the applicable amount of credits (per the above government-presented categories) should be **\$95,541,738**, instead of **\$120,839,000** (a difference of **\$25,297,262**), before any consideration of the fair market value relating to Mr. Callahan's services associated with managing various investments not alleged as fraud.
11. As presented on the attached exhibits, the **\$25,297,262** reduction consists of three separate adjustments. *First*, I assumed that the **\$6.4 million**, identified by the government as recovered from the hedge funds when assets in this case were seized, was not considered loss. Therefore, I deemed this credit to be inapplicable. *Second*, in estimating the loss associated with the fraud, the government apparently did not include the entirety of certain investments made in one of Mr. Callahan's investment vehicles known as Pangea Offshore High Yield Portfolio, LLC ("Pangea"). For this reason, I concluded that redemptions, totaling **\$4,364,045**, redeemed by investors in Pangea prior to February 5, 2008 (beginning of the described Ponzi scheme) should not be considered applicable credits against the financial loss. *Third*, I reduced the net proceeds from the sale of the Panoramic View resort by the amount of monies, totaling **\$14,533,217**, that were transferred from Pangea and/or Pangea investors to purchase this asset.

12. Next, because the government in this case alleged that Mr. Callahan's investments in certain hedge funds were properly made, not induced by the charged fraud, I estimated a minimum of additional credits for the fair market value of hedge-fund related services by calculating: (i) applicable management fees (\$1,316,844) and (ii) incentive fees (\$2,084,394) which I understood were in fact paid in connection with the investments in the hedge funds. The value of that additional credit is \$3,401,238. I was advised that, under sentencing guidelines, such credit can be considered.
13. My conclusion was that applying the above-presented credits to amount of the Ponzi scheme (as per the Indictment) resulted in a gain of \$2,942,976 (\$96 million the Ponzi scheme per indictment, less \$95,541,738 of applicable credits categories, per government's presentation, and less \$3,401,238 of credits relating to the fair market value of services rendered). My full analysis is attached.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 19, 2019



Michael Kupka



Financial Advisory Services

FORENSIC ACCOUNTING AND DISPUTE RESOLUTION SERVICES

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1. Revised Calculation

Calculation of the revised Actual Loss (Gain)				
	Initial Amount	Adjustments	Notes	Revised Amounts
Amount of the Ponzi scheme, as per the Indictment			(a)	\$ 96,000,000
Redemptions paid to prior investors	\$ 74,000,000	\$ (4,364,045)	(b)	69,635,955
Monies recovered by the Receiver	6,400,000	(6,400,000)	(c)	-
Net proceeds from sale of 47 Clock Tower	139,000			139,000
Net proceeds from the sale of the Panoramic	40,300,000	(14,533,217)	(d)	25,766,783
Total Credit	\$ 120,839,000	\$ (25,297,262)		\$ 95,541,738
Actual Loss (Gain)				\$ 458,262
Estimated Amount of Management Fees (Hedge Funds)			(e)	(1,316,844)
Estimated Incentive Fees (Hedge Funds)			(f)	(2,084,394)
Actual Loss (Gain)				\$ (2,942,976)

Notes:

- (a) Amount of the Ponzi scheme, as per the Indictment.
- (b) Redemptions made from Pangea prior to February 5, 2008 (see listing).
- (c) Monies invested/held in hedge funds as of May 2012 (not considered part of the fraud).
- (d) Monies transferred from Pangea and/or Pangea investors to Panoramic.
- (e) See Page 6.
- (f) See Page 7.

(b) Redemptions made from Pangea prior to February 5, 2008

Pangea Offshore High Yield Portfolio, LLC			
Pangea Fund Accounts (Unaudited)			
DATE	01 - Bank of America - Business Economy CHKG - Pangea Offshore High Yield Portfolio LLC (004831243074)	02 - Bank of America - Business Interest Maximizer - Pangea Offshore High Yield Portfolio LLC (004834015322)	Description
01/13/06	(52,500)		- Redemption: Cliff Silverstein - Citizens Bank
02/13/06	(1,400,000)		- Redemption: 208880 ROCHDALE OFFSHORE GLOBAL OP FUND (Shai Reshef - Remini Trust?)
03/17/06	(275,000)		- Redemption: Shai Reshef - Pictet & Cie Act J720157 (Remini Trust?)
03/31/06	(725,000)		- Redemption: ROCHDALE OFFSHORE GLOBAL OP FUND (Shai Reshef - Remini Trust?)
09/06/06	(11,945)		- Redemption: Lane Group International (Lighthouse) - Cheryl Lane
09/19/06	(11,945)		- Redemption: Lane Group International (Lighthouse) - Cheryl Lane
10/04/06	(11,945)		- Redemption: Lane Group Intl (Lighthouse - Cheryl Lane)
10/05/06	-	(175,114)	Redemption: Royal Bank of Canada Lighthouse (Cheryl Lane group)
02/02/07	(1,751)		- Redemption: Lighthouse / Lane Group / Cheryl Lane
02/02/07	(116,000)		- Redemption: National Bank Of Anguilla (Westminster Hope and Turnberry)
02/27/07	(225,000)		- Redemption: National Bank Of Anguilla (Westminster Hope and Turnberry)
02/27/07	(16,107)		- Redemption: National Bank Of Anguilla Citadel Insurance Comp
02/27/07	(124,809)		- Redemption: National Bank Of Anguilla Fidelity Insurance Company
03/30/07	(15,688)		- Redemption: National Bank Of Anguilla Pangea Global Opportunities (Westminster Hope and Turnberry)
03/30/07	(550,000)		- Redemption: National Bank Of Anguilla Pangea Global Opportunities (Westminster Hope and Turnberry)
04/13/07	(93,958)		- Redemption: National Bank Of Anguilla Fidelity Ins. Company
05/01/07	(287,713)		- Redemption: National Bank Of Anguilla Westminster, Hope and Turnberry
06/04/07	(8,818)		- Redemption: National Bank Of Anguilla Pangea Conservative Fund (Westminster Hope and Turnberry)
06/04/07	(104,955)		- Redemption: National Bank Of Anguilla Pangea Global Opportunities (Westminster Hope and Turnberry)
06/04/07	(43,218)		- Redemption: National Bank Of Anguilla Pangea High Yield Portfolio (Westminster Hope and Turnberry)
08/14/07	(35,863)		- Redemption: National Bank Of Anguilla Pangea Global Opportunities Portfolio (Westminster Hope and Turnberry)
11/08/07	(33,265)		- Redemption: National Bank Of Anguilla Westminster, Hope Turnberry
12/07/07	(43,449)		- Redemption: National Bank Of Anguilla Pangea Global Opportunities Westminster Hope and Turnberry



(d) Monies transferred from Pangea and/or Pangea investors to Panoramic

DATE	16 - Amounts Transferred to: Dist-Inv., Dist-Vent., Pan-View, Trimont, Bay-YC, Dune-Harbor.	Description
06/06/05	260,000	Subscription/MISUSE: American Trust (Aidan Tinney)/Pictet And Cie directly into BM IOLA (4365) - used for checks 101092-101093 Dune Harbor/BayPointe Yacht Club
11/28/05	250,000	MISUSE: Pangea (3074) to BM IOLA Escrow (4365) to Deposit on Panoramic View
11/28/05	65,000	MISUSE: Pangea (3074) to BM IOLA Escrow (4365) to Deposit on Panoramic View
12/13/05	250,000	MISUSE: Pangea (3074) to BM IOLA Escrow (4365) to Deposit on Panoramic View
12/13/05	250,000	MISUSE: Pangea (3074) to BM IOLA Escrow (4365) to Deposit on Panoramic View
12/19/05	400,000	Subscription/MISUSE: American Trust (Aidan Tinney)/Pictet And Cie directly into BM IOLA (4365) to Deposit on Panoramic View
12/27/05	800,000	MISUSE: Pangea (3074) to BM IOLA Escrow (4365) to Deposit on Panoramic View
02/13/06	70,000	MISUSE: Pangea (3074) to BM IOLA Escrow (4365) to Dist-Inv Checking (1665): Check 101624 - Distinctive Ventures / Panoramic View Due Dilligence
09/14/06	150,000	MISUSE: Pangea (3074) to Dist-Inv Checking (1665)
10/05/06	60,000	MISUSE: Pangea (5322) to BM IOLA Escrow (4365) to Dist-Inv Savings (3642): Check 101625 - Distinctive Investments / From Pangea (Panoramic)
10/11/06	356,217	MISUSE: Pangea (3074) to BM IOLA Escrow (4365) to Dist-Inv Savings (3642): Check 101628 Distinctive Investments / From Pangea (Panoramic)
11/14/06	2,940,000	MISUSE: Pangea (3074) to BM Escrow (4365) to Dist-Inv Savings (3642)
12/07/06	6,950,000	MISUSE: Pangea (3074) to BM IOLA Escrow (4365) to Dist-Inv Savings (4365)
12/19/06	245,000	MISUSE: Pangea (3074) to BM IOLA Escrow (4365) to Dist-Inv Checking (1665)
01/31/07	300,000	MISUSE: Pangea (3074) to Dist-Inv Checking (1665)
02/27/07	350,000	MISUSE: Pangea (3074) to Dist-Inv Checking (1665)
03/30/07	348,000	MISUSE: Pangea (3074) to Dist-Inv Checking (1665)
05/01/07	348,000	MISUSE: Pangea (3074) to Dist-Inv Checking (1665)
06/04/07	348,000	MISUSE: Pangea (3074) to Dist-Inv Checking (1665)
10/22/07	260,000	MISUSE: Pangea (3074) transfer to BM IOLA Escrow (4365) withdrawn as a fake deposit from a I
04/07/08	250,000	MISUSE: Pangea (3074) to BM IOLA Escrow (4365) to Trimont Real Estate
01/26/09	(199,150)	MISUSE: Diversified Fund VPB (760) to BM IOLA Escrow (4365) to \$192,500 deposited in CHASE C
01/29/09	(517,869)	MISUSE: Pangea (3074) to BM IOLA Escrow (4365) \$250K withdrawn to BM Escrow (4498) as a
02/03/09	328,000	MISUSE: Pangea (3074) to BM IOLA Escrow (4365)
02/04/09	(327,980)	Returned MISUSE: BM IOLA Escrow (4365) to Pangea (3074)



2. Management Fees Calculation - Estimate

Calculation of the Management Fees						
Period	Diversified Global Investments		The Masters Global Fund		Horizon Millennium Investments	
	Ending Balance	Calculated Management Fee (0.375% on the ending balance)	Ending Balance	Calculated Management Fee (0.375% on the ending balance)	Ending Balance	Calculated Management Fee (0.375% on the ending balance)
Q1 2007	\$ 28,778,888	\$ 107,921	\$ -	\$ -	\$ -	\$ -
Q2 2007	38,963,752	146,114	-	-	5,767,064	21,626
Q3 2007	37,143,262	139,287	-	-	5,020,772	18,828
Q4 2007	38,681,246	145,055	158,435	594	5,055,744	18,959
Total 2007		538,377		594		59,413
Q1 2008	27,585,349	103,445	1,232,312	4,621	6,139,327	23,022
Q2 2008	24,219,926	90,825	1,357,774	5,092	6,203,232	23,262
Q3 2008	16,158,603	60,595	1,356,699	5,088	6,253,911	23,452
Q4 2008	1,333,697	5,001	1,148,595	4,307	6,157,467	23,090
Total 2008		259,866		19,108		92,827
Q1 2009	1,934,639	7,255	1,149,635	4,311	6,158,141	23,093
Q2 2009	682,145	2,558	1,148,745	4,308	6,125,827	22,972
Q3 2009	898,564	3,370	1,148,689	4,308	6,156,178	23,086
Q4 2009	1,078,000	4,042	1,148,669	4,308	7,260,639	27,227
Total 2009		17,225		17,234		96,378
Q1 2010	961,202	3,605	1,149,063	4,309	7,113,106	26,674
Q2 2010	483,197	1,812	1,077,263	4,040	7,112,697	26,673
Q3 2010	563,876	2,115	1,077,263	4,040	4,912,697	18,423
Q4 2010	687,870	2,580	1,077,263	4,040	4,912,697	18,423
Total 2010		10,111		16,428		90,192
Q1 2011	733,741	2,752	1,077,263	4,040	4,912,697	18,423
Q2 2011	728,382	2,731	852,906	3,198	4,912,697	18,423
Q3 2011	554,955	2,081	852,906	3,198	5,206,640	19,525
Q4 2011	645,519	2,421	739,890	2,775	5,206,640	19,525
Total 2011		9,985		13,211		75,895
Total 2007 to 2011		\$ 835,563		\$ 66,575	\$ 414,706	\$ 1,316,844

3. Incentive Fees Calculation - Estimate

Incentive fees Calculation							
Year	Diversified Global Investments		The Masters Global Fund		Horizon Millennium Investments		
	Calculated Profit/Loss	Calculated Incentive Fees (20% of Calculated Net Profit)	Calculated Profit/Loss	Calculated Incentive Fees (20% of Calculated Net Profit)	Calculated Profit/Loss	Calculated Incentive Fees (20% of Calculated Net Profit)	
2007	\$ 7,493,418	\$ 1,498,684	-	-	-	-	
2008	(21,845,899)	n/a	-	-	-	-	
2009	495,763	99,153	-	-	987,697	197,539	
2010	151,147	30,229	-	-	-	-	
2011	(42,351)	n/a	(15,017)	n/a	1,293,943	258,789	
Total		\$ 1,628,066		\$ -		\$ 456,328	\$ 2,084,394



3. Incentive Fees Calculation - Details

DATE	04 - Citibank/Smith Barney/Morgan Stanley - Horizon Global Investments LP - Horizon Research Portfolio (3890024C13)	05 - Citibank/Smith Barney/Morgan Stanley - Horizon Global Investments LP - Horizon Large Cap Value (3890023C15)	06 - Kinetics Hedge Fund	08 - Morgan Stanley Masters Global Fund Account	10 - Millennium USA Hedge Fund	Description
01/31/07	11,185	9,608	-	-	-	- Citibank Global Markets HGI Accounts: Reinvestments (dividends, etc)
01/31/07	160,702	53,160	-	-	-	- Citibank Global Markets HGI Accounts: Unrealized P&L
02/28/07	35,980	-	-	-	-	- Citibank Global Markets HGI Accounts: Realized P&L
02/28/07	17,376	6,717	-	-	-	- Citibank Global Markets HGI Accounts: Reinvestments (dividends, etc)
02/28/07	38,432	(324,579)	-	-	-	- Citibank Global Markets HGI Accounts: Unrealized P&L
03/30/07	29,596	11,580	-	-	-	- Citibank Global Markets HGI Accounts: Reinvestments (dividends, etc)
03/30/07	359,151	314,853	-	-	-	- Citibank Global Markets HGI Accounts: Unrealized P&L
04/30/07	10,680	6,749	-	-	-	- Citibank Global Markets HGI Accounts: Reinvestments (dividends, etc)
04/30/07	762,956	538,460	-	-	-	- Citibank Global Markets HGI Accounts: Unrealized P&L
05/11/07	-	-	-	-	-	- Account Interest/Fees
05/30/07	13,850	16,139	-	-	-	- Citibank Global Markets HGI Accounts: Reinvestments (dividends, etc)
05/30/07	589,105	1,015,404	-	-	-	- Citibank Global Markets HGI Accounts: Unrealized P&L
06/29/07	-	-	-	-	-	- Account Interest/Fees
06/30/07	-	447	-	-	-	- Citibank Global Markets HGI Accounts: Realized P&L
06/30/07	41,679	37,320	-	-	-	- Citibank Global Markets HGI Accounts: Reinvestments (dividends, etc)
06/30/07	91,353	(50,891)	-	-	-	- Citibank Global Markets HGI Accounts: Unrealized P&L
07/31/07	766,203	1,310,069	-	-	-	- Realized P&L
07/31/07	10,513	14,761	-	-	-	- Reinvestments (dividends, etc)
07/31/07	(1,792,663)	(1,546,407)	-	-	-	- Unrealized P&L
08/31/07	-	-	418,986	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
08/31/07	98,993	-	-	-	-	- Realized P&L
08/31/07	2,053	8,048	-	-	-	- Reinvestments (dividends, etc)
08/31/07	(206,583)	-	-	-	-	- Unrealized P&L
09/30/07	-	-	3,331,808	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
09/30/07	24	17	-	-	-	- Reinvestments (dividends, etc)
10/31/07	-	-	3,348,443	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
10/31/07	25	17	-	-	-	- Reinvestments (dividends, etc)
11/30/07	-	-	(2,593,484)	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
12/31/07	-	-	525,583	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
01/31/08	-	-	(6,050,358)	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
02/29/08	-	-	(1,596,091)	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
03/31/08	-	-	(1,815,968)	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
04/30/08	-	-	2,853,537	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
05/30/08	-	-	966,371	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
06/30/08	-	-	(4,410,765)	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
07/30/08	-	-	(2,072,818)	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
08/31/08	-	-	(132,309)	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
09/30/08	-	-	(5,821,542)	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
10/31/08	-	-	(2,642,906)	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)



3. Incentive Fees Calculation - Details

DATE	04 - Citibank/Smith Barney/Morgan Stanley - Horizon Global Investments LP - Horizon Research Portfolio (3890024C13)	05 - Citibank/Smith Barney/Morgan Stanley - Horizon Global Investments LP - Horizon Large Cap Value (3890023C15)	06 - Kinetics Hedge Fund	08 - Morgan Stanley Masters Global Fund Account	10 - Millennium USA Hedge Fund	Description
11/30/08	-	-	(1,126,736)	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
12/31/08	-	-	3,686	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
01/31/09	-	-	(121,639)	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
02/28/09	-	-	(116,297)	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
03/31/09	-	-	177,893	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
04/30/09	-	-	249,696	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
05/30/09	-	-	114,897	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
06/30/09	-	-	(13,230)	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
07/31/09	-	-	75,025	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
08/31/09	-	-	42,656	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
09/30/09	-	-	66,337	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
10/31/09	-	-	(52,616)	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
11/30/09	-	-	50,375	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
12/31/09	-	-	22,666	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
12/31/09	-	-	-	-	-	987,697 Millennium USA LP Investment unrealized gain per Deloitte 2009 audit
01/31/10	-	-	(59,120)	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
02/28/10	-	-	36,839	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
03/31/10	-	-	84,419	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
04/30/10	-	-	63,987	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
05/31/10	-	-	(144,932)	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
06/30/10	-	-	(34,719)	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
07/31/10	-	-	32,198	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
08/31/10	-	-	(28,932)	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
09/30/10	-	-	77,413	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
10/31/10	-	-	60,070	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
12/31/10	-	-	63,924	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
03/31/11	-	-	45,871	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
06/30/11	-	-	(5,359)	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
07/15/11	-	-	-	-	-	1,293,943 Millennium USA LP Investment gain
09/30/11	-	-	(173,427)	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
12/31/11	-	-	90,564	-	-	- Kinetics Institutional Partners - Investment Gains (Losses)
12/31/11	-	-	-	(15,017)	-	- Unrealized loss on Investments
2007	1,040,610	1,421,471	5,031,336	-	-	-
2008	-	-	(21,845,899)	-	-	-
2009	-	-	495,763	-	-	987,697
2010	-	-	151,147	-	-	-
2011	-	-	(42,351)	(15,017)	-	1,293,943



MICHAEL KUPKA, CPA/ABV/CFF, CFE, CVA

Practice Leader – Mazars USA

Forensic Accounting and Dispute Resolution Services

Michael possesses over 18 years of forensic and public accounting experience with a specialty in complex business, commercial, criminal and multi-party matters including:

- contractual disputes / economic damages,
- insurance claims,
- white-collar criminal defense,
- business valuations / impact of wrong data,
- matrimonial matters,
- bankruptcies and restructuring,
- partnership disputes,
- fraud examinations,
- internal controls,
- mergers and acquisitions, and
- reconstruction of records.

He has been involved in hundreds of engagements for clients ranging from Fortune 500 companies to small entrepreneurial businesses in a variety of industries. Currently, Michael is the managing director of the Forensic Accounting and Dispute Resolution Department at Mazars USA.

LICENSES & CERTIFICATIONS

CPA - Certified Public Accountant (2003).

CFE - Accredited as a Certified Fraud Examiner by the Association of Certified Fraud Examiners (2003).

CVA - Accredited as a Certified Valuation Analyst by the National Association of Certified Valuation Analysts (2005).

ABV - Accredited in Business Valuation by the American Institute of Certified Public Accountants (2010).

CFF - Accredited as a Certified Financial Forensic Accountant by the American Institute of Certified Public Accountants (2011).

EDUCATION

Schulich School of Business, York University - Bachelor of Business Administration, Accounting and Finance (2000).

MEMBERSHIPS

Member of the American Institute of Certified Public Accountants.

Member of the Association of Certified Fraud Examiners.

Member of the National Association of Certified Valuators and Analysts.

Board Member of the Association of Insolvency and Restructuring Advisors.

PROFESSIONAL HISTORY

Mazars USA (formerly WeiserMazars), Forensic Accounting and Dispute Resolution Services, New York, NY (2014-Present).

Citrin Cooperman and Company, Valuation and Forensic Services, New York, NY (2007 – 2014).

DelBrocco and Associates, Assurance and Consulting Services, Memphis, TN (2005 – 2007).

MJC Forensic Accountants (formerly RGL Forensics), Forensic Accounting Services, Nashville, TN (2003 – 2005).

A. Neuman Associates, Forensic and Investigative Accounting Services, Toronto, ON (2000 – 2003).

**PUBLICATIONS AND
SPEAKING ENGAGEMENTS
(LAST FOUR YEARS)**

- “*Fraud Prevention and Detection Tools*”; Webinar – WeiserMazars; (August 2015).
- “*Troubled Asset Relief Program*”; Speaker – New York Bar Association – Consumer Affairs Committee; (April 6, 2016).
- “*How to Defeat Charges of Accounting Frauds*”; Speaker - 2016 Fraud Seminar for CPAs 22nd Annual NJ Accounting Show; (May 2016).
- “*Are you Prepared? New York State Issues New BSA/AML/OFAC Transaction Monitoring and Filtering Program Regulation (Part 504)*”; Article – Financial Advisory Services Alert WeiserMazars; (July 2016).
- “*Fraud Issues in Consumer Products*”; Webinar – WeiserMazars; (August 2016).
- “*Occupational Fraud: There’s a good chance you’re a victim*”; Article – Insights/Ledger WeiserMazars; (October 2016).
- “*Fraud in Non-for-Profit Industry*”; Speaker - New York State Society of CPAs; (December 2016).
- “*Split-up Season: The Tope 10 guide to Divorce*”; Article – Insights/Ledger WeiserMazars; (December 2016).
- “*F for fraud*” by Claude Solnik; Long Island Business News; (February 2017).
- “*Addressing the Issue of Occupational Fraud at Your Not-For-Profit Organization*”; Article – Insights/Ledger Mazars; (April 2017).
- “*Forensic Accounting and Litigation: Tools and Strategies for 2017 and Beyond*”; The Knowledge Group; (October 2017).
- “*Culture of Compliance*”; Speaker – Financial Services Symposium Panelist; (October 2017).
- “*Whistleblowers: A Path to Combatting Fraud*”; Article – Ledger Mazars; (December 2017).
- “*Forensic Accounting*”; Speaker – Hunter College (Accounting Society); (March 2018).
- “*Using Experts Before, During and After the Trial*”; Speaker – City Bar Matrimonial Law Committee; (September 2018).
- “*The Art of Cross-Examining the Valuation Expert*”; Speaker – Panelist Illinois Institute for Continuing Legal Education; (January 2019).

**TESTIFYING
ENGAGEMENTS
(LAST FOUR YEARS)**

Trial Testimony, Laurie A Uher v. Gary R. Uher, **Supreme Court of the State of New York, County of Westchester** (March 2015). Nature of the Testimony: True Economic Income.

Deposition, Olympic Ice Cream Co., Inc. et al. v Brian R. Heitner et al. **Supreme Court of the State of New York, County of Queens** (November 2016). Nature of the Testimony: Partnership Dispute.

Bankruptcy Court Testimony, Novapro Holdings, LLC, et al., v. U.S. Risk Insurance Group, Inc., et al., **United States Bankruptcy Court, for The District of Delaware** (October 2017). Nature of the Testimony: Reconstruction of Records, Business Insolvency and Fraudulent Conveyances.

Expert Testimony Arbitration, Fifth Quadrant Analytics, LLC, et al., v. Richard Donovan., et al., **American Arbitration Association**, New York, NY (March 2018). Nature of the Testimony: Partnership Dispute and Reconstruction of Records.

Deposition, Rose Ann Paguirigan, individually and on behalf of all others similarly situated v. Prompt Nursing Employment Agency LLC d/b/a Sentosa Services, et al., **United States District Court, Eastern District of New York** (June 2018). Nature of the Testimony: Employment Contractual Dispute.

Expert Testimony Arbitration, Joseph Caracappa v. Albert Gallo, **American Arbitration Association**, New York, NY (July 2018). Nature of the Testimony: Shareholder Dispute/Buy-out provisions.

OTHER

Fiduciary with the New York State’s Office of Court Administration – Appointed by Supreme Court of the State of New York to conduct forensic audit and accounting.